

**KANSAS DENTAL BOARD MEETING MINUTES
FRIDAY, JANUARY 20, 2012, 9:00 A.M.
LANDON STATE OFFICE BUILDING
900 SW JACKSON, ROOM 560
TOPEKA, KANSAS**

A. Call To Order / Approval of the Agenda.

Call To Order: Glenn Hemberger, D.D.S., President, called the meeting to order at 9:06 a.m. Lane Hemsley was welcomed as the new Executive Director of the Board. Melissa Graham and Vanda Collins were thanked for their hard work during the absence of an Executive Director.

Members Present At Call To Order: Glenn Hemberger, D.D.S., President; Susan Rodgers, R.D.H., Secretary; Scott Hamilton, D.D.S.; Roger Stevens, D.D.S.; Charles Squire, D.D.S.; Denise Maus, R.D.H.

Members Arriving After Call To Order: Richard Darnall, D.D.S., Vice-President, arrived at 1:00 p.m. James Showalter, Public Member, arrived at 11:00 a.m.

Members Absent: Michael Milford, D.D.S.

Staff Present: Randy Forbes, Attorney for the Board; Steve Johnson, D.D.S., Board Investigator; Lane Hemsley, Executive Director; Melissa Graham, Administrative Officer; and Vanda Collins, Senior Administrative Assistant.

Attendees: Margaret LoGiudice; Jill Gottschamer; Connie Hubbell; Suzanne Wikle; Kevin Robertson; Junetta Everett; Patty McAnderson; Lawless Barrientos; Kathy Hunt; Kelley Shepard; Mark Stafford.

Approval Of The Agenda: It was moved and seconded to approve the agenda. The motion passed.

B. Minutes of November 4, 2011.

It was moved and seconded to approve the minutes of November 4, 2011. The motion passed.

C. Request for Reconsideration of Board Order: Kelley Shepard, R.D.H.

At 9:13 a.m., it was moved and seconded to close the meeting for five minutes for the purpose of Executive Session. The motion passed. At 9:19 a.m., the Board reconvened in open

session. At that time, it was moved and seconded to permit Kelley Shepard, R.D.H., to practice dental hygiene under both "direct supervision" and "general supervision" of a licensed dentist as defined by K.S.A. 65-1456(d) and, thereby, fully reinstate her license to practice dental hygiene with no conditions or limitations. The motion passed.

D. Further Discussion of "Nitrous Oxide Sedation for Dental Auxiliaries" Course: Margaret LoGiudice, R.D.H.

The Board welcomed Margaret LoGiudice, R.D.H. Ms. LoGiudice is a course facilitator for Johnson County Community College and seeks the Board's approval of the proposed 8-hour "Nitrous Oxide Sedation for Dental Auxiliaries" course. Ms. LoGiudice explained that, under K.S.A. 65-1444(b), a 16-hour course has been taught in CODA approved and accredited institutions and dental offices to both hygienists and dental auxiliaries since the middle of the 1990s. When some dental offices approached her for a shortened course between 6 and 8 hours for dental auxiliaries, Ms. LoGiudice sought approval from the Board. The Board denied her previous course request at the meeting held November 4, 2011. After further discussion, questioning of Ms. LoGiudice, and review of K.S.A. 65-1444(b), it was moved and seconded to approve a 16-hour course for dental auxiliaries that Ms. LoGiudice presently gives to dental hygienists. The motion passed. Dental hygienists and dental auxiliaries will be required to take the 16-hour course under K.S.A. 65-1444(b).

The Board took a break at 10:15 a.m.

The Board reconvened at 10:28 a.m.

E. Registered Dental Practitioner (RDP).

1. **Presentations.** The Board welcomed Suzanne Wikle, Director of Policy and Research at Kansas Action for Children. Ms. Wikle described the Kansas Dental Project, which is a joint effort by three organizations – Kansas Action for Children, Kansas Association for the Medically Underserved, and the Kansas Health Consumer Coalition – to increase access to dental care for their constituencies. The Kansas Dental Project's goals are to address the dental workforce shortage by adding a new mid-level professional to the dental team and provide more Kansans in rural and underserved communities with access to the dental care they need. In order to address these goals, the Kansas Dental Project proposes the implementation of a mid-level provider called a RDP. After outlining key components of the proposed RDP legislation, Ms. Wikle fielded numerous questions from the Board.

The Board welcomed Kevin Robertson, Executive Director of the Kansas Dental Association. Mr. Robertson described that, like the Kansas Dental Project, the Kansas Dental Association believes that all Kansans deserve access to safe, quality oral health care. Where the groups differ, however, is on the proposed RDP legislation. The Kansas Dental Association supports the expansion of services for dental hygienists, but not the RDP concept. To that end, the Kansas Dental Association is participating in the Kansas Board of Regents Oral Health Task Force, which is exploring the number of dentists that will be needed in the future and the best methods to fill Kansas workforce needs. Additionally, the Kansas Dental Association continues to sponsor the Kansas Mission of Mercy (KMOM) project and work on educating the legislature

regarding the benefits of an adult dental Medicaid program. Finally, through 2011 S.B. 132, the Kansas Dental Association seeks to create a new Extended Care Permit III (ECP III). After outlining key concerns of the proposed RDP legislation, Mr. Robertson fielded numerous questions from the Board.

The Board took a lunch break at 12:35 p.m.

The Board reconvened at 1:05 p.m.

2. Identical Bills and Fiscal Notes. The Board reviewed 2011 H.B. 2280, which is identical to 2011 S.B. 192. Both bills relate to the RDP proposal. After extended discussions, additional questions for Ms. Wikle and Mr. Robertson, and various motions regarding the proposed RDP legislation, it was moved and seconded to oppose the RDP bills for the following reasons:

- (1) "General supervision" for extractions of primary teeth (§ 2(c)(19));
- (2) "general supervision" provision does not require the patient to see a dentist after RDP treatment;
- (3) concerns about RDP screening for oral cancer with improper or inadequate training;
- (4) concerns that an RDP would have only practiced under "direct supervision" of a supervising dentist for at least 500 hours before practicing under "general supervision" while a D.D.S. student would have 2 years of clinical practice experience upon graduation (§ 1(c)(3));
- (5) two RDP members on the Board is highly disproportionate to the number of licensed dentists, hygienists, and any future RDPs (§ 20(a));
- (6) "general supervision" provision requires a written supervising agreement that is not clear (§ 1(b); § 2(c)); and
- (7) board difficulties in enforcement of RDPs working in private practice where at least 20% of total patient revenues are derived from Medicaid (§ 1(d)).

After additional discussion, the motion to oppose the RDP bills for the foregoing reasons passed.

F. Extended Care Permit III (ECP III): 2011 S.B. 132 and Fiscal Note.

The Board welcomed Kevin Robertson, Executive Director of the Kansas Dental Association, to discuss 2011 S.B. 132. The bill creates a new Extended Care Permit III (ECP III) hygienist under the Kansas Dental Practices Act. Current law already provides for an ECP I and ECP II hygienist. The ECP III would be able to perform additional dental tasks and procedures after the dental hygienist has performed 2,000 hours of dental hygiene care or has been an instructor at an accredited dental hygiene program for three academic years within the past four years and completed a course of study of 18 seat hours approved by the board. It was moved and seconded for the Board to support the bill. The motion passed.

G. Request to Reconsider the Majority Presence Rule: K.S.A. 65-1435(d).

After discussion, it was moved and seconded to table discussion on the request to reconsider the majority presence rule in K.S.A. 65-1435(d). The motion passed.

H. Social Coupons / Groupons and Fee Splitting Arrangements.

Scott Hamilton, D.D.S., explained how social coupons and Groupons work. The Board asked for a legal opinion on whether social coupons and Groupons violate the fee-splitting prohibition in K.S.A. 65-1436(a)(7). Without reviewing the merchant agreement between a social coupon merchant and a dental office, it is difficult to conclude that a social coupon or Groupon violates the fee-splitting prohibition in K.S.A. 65-1436(a)(7). After discussion, the Board directed the Board's staff to include a notice in the newsletter encouraging dental offices using the services of a social coupon or Groupon merchant to ensure that the merchant agreement does not violate the fee-splitting prohibition in K.S.A. 65-1436(a)(7).

I. Facebook / Social Media Question.

Lane Hemsley explained that the Board office has been receiving a high number of inquiries regarding advertising on Facebook or through other forms of social media. The Board encourages Facebook and social media users to ensure that all forms of advertising avoid improper fee-splitting arrangements under K.S.A. 65-1436(a)(7) and comply with the advertising limitations and requirements found in K.S.A. 65-1437 and K.A.R. 71-7-1.

J. Public Forum.

The Board welcomed Lawless Barrientos of Comfort Dental. Mr. Barrientos gave an overview of how Comfort Dental worked to change the Kansas Dental Practices Act during the 2011 legislative session. The changes resulted in the passage of K.S.A. 65-1470 and K.S.A. 65-1471, which permit franchise dentistry within certain limitations. Mr. Barrientos described how Comfort Dental believes it could work with new dental school graduates and assist with access to care issues.

The Board welcomed Kevin Robertson, Executive Director of the Kansas Dental Association. He informed the Board that the House Committee on Health and Human Services would hold a roundtable discussion on the proposed Registered Dental Practitioner legislation (2011 H.B. 2280 and 2011 S.B. 192) on Friday, January 27, 2012. Glenn Hemberger, D.D.S., and Lane Hemsley will attend the roundtable discussion on behalf of the Board. Mr. Robertson also advised the Board that Kansas Board of Regents Oral Health Task Force will be holding meetings throughout spring 2012 to discuss various dental workforce models and proposals. Lane Hemsley will attend these meetings on behalf of the Board.

The Board took a break at 2:32 p.m.

The Board reconvened at 2:40 p.m.

K. Stipulation and Consent Orders.

1. **David G. Hall, D.D.S., Case 11-84.** Attorney Randy Forbes presented the Stipulation and Consent Order. Dr. Hall was the subject of a random CE audit and failed to provide documentation that he had attended at least 60 hours of CE and proof of liability

insurance. Dr. Hall paid a \$1,000 fine and, if he is unable to provide proof of his 60 CE hours within 60 days, he will have to pay an additional fine of \$4,000. It was moved and seconded to approve the Stipulation as long as Dr. Hall provides proof of professional liability insurance within the same 60 days. The motion passed.

2. **Anita M. Knox, D.D.S., Case 10-94.** Attorney Randy Forbes presented the Stipulation and Consent Order. Dr. Knox entered into an Agreed Settlement Order in Texas for falling below the minimum standard of care in the treatment and recordkeeping for a patient. Dr. Knox is required to maintain compliance with the Texas Agreed Settlement Order and take the Kansas Jurisprudence Examination within 60 days of the effective date of the Stipulation. It was moved and seconded to approve the Stipulation. The motion passed.

L. President's Report: Dr. Hemberger.

1. **Radiographs for Dental Assisting Course.** The Board received an inquiry regarding whether "direct supervision" of a licensed dentist is required for a non-licensed person (i.e., Dental Assistant) to take dental x-rays in an educational setting. After discussion, it was moved and seconded to permit a non-licensed person (i.e., Dental Assistant) to take dental x-rays in an educational setting under "general supervision," but only after a licensed dentist has performed an evaluation and ordered x-rays. The motion passed.

2. **Recognition of Denise Maus, R.D.H.** Glenn Hemberger, D.D.S., thanked Denise Maus, R.D.H., for her 8 years of hard work and dedicated service to the Board. The Board presented Ms. Maus with a plaque.

**M. Investigations Report: Dr. Darnall / Melissa Graham.
Inspections Report: Dr. Johnson.**

Richard Darnall, D.D.S., and Melissa Graham presented the status of the Investigative Committee cases from October 1, 2011, to December 31, 2011.

N. Continuing Education Reports: Denise Maus, R.D.H.

Denise Maus, R.D.H., presented state-by-state comparison reports regarding continuing education course requirements and course content limitations for license renewal of dentists and hygienists. Some states limit the amount of practice management and self-study hours permitted for licensure renewal. The Board's continuing education requirements are outlined in K.A.R. 71-4-1. After discussion, the Board took no action to change the CE course requirements at this time.

O. Executive Report: Lane Hemsley.

1. **Licensee Report.** Lane Hemsley provided license information from October 26, 2011, to December 31, 2011.

2. **Budget.** Lane Hemsley provided an overview and described the budget for the remaining months of FY 2012 (ending June 30, 2012) and FY 2013 (July 1, 2012 – June 30, 2013). Due to budget cuts for out-of-state travel, the budget will not allow for reimbursement of any Board members to attend the AADB mid-year meeting in Chicago from April 22 – 23, 2012.

3. **Travel (AADB).** After discussion regarding the importance of attending the AADB meetings to learn about national issues, it was recommended that Lane Hemsley review the budget and, if possible, attend the AADB mid-year meeting in Chicago from April 22 – 23, 2012.

4. **Specialty Licenses.** Lane Hemsley provided information for specialty licenses from October 26, 2011, to December 31, 2011.

5. **Kansas Dental Practices Act: Revised January 2012.** Lane Hemsley provided the Board members with copies of the Kansas Dental Practices Act, which was updated and revised in January 2012 to account for various changes during the 2011 legislative session. The revised edition has been posted to the Board's website.

6. **Newsletter.** The Board staff intends to begin preparing newsletters quarterly starting in 2012 and reduce printing costs and paper consumption through the use of electronic distribution.

P. Election of Officers: K.S.A. 74-1405.

1. **President.** It was moved and seconded to nominate Glenn Hemberger, D.D.S. The motion passed.

2. **Vice-President.** It was moved and seconded to nominate Richard Darnall, D.D.S. The motion passed.

3. **Secretary.** It was moved and seconded to nominate Susan Rodgers, R.D.H. The motion passed.

Q. New Business / Adjournment.

New Business:

1. **Can a dental assistant use a high-speed hand-piece?** No. A dental assistant cannot use a high-speed hand-piece.

2. **Central Regional Dental Testing Service (CRDTS).** After discussion, it was determined that Susan Rodgers will replace Denise Maus as the CRDTS steering committee member. Denise Maus will replace Susan Rodgers on the CRDTS dental hygiene examination review committee.

3. **Future Board Meetings.** Friday, May 25, 2012; Friday, August 10, 2012; Friday, November 2, 2012. All meetings are scheduled to be held in the Landon State Office Building, Topeka, Kansas.

Adjournment: It was moved and seconded to adjourn at 4:10 p.m. The motion passed.
The meeting was adjourned.

APPROVED BY:



Susan Rodgers, R.D.H.
Secretary, Kansas Dental Board

5-25-12

Date